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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,137	02/20/2004	Steven R. Atkins	FORRE 67592	5354
24201	7590	05/04/2007		
FULWIDER PATTON LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045			EXAMINER BRITTAIN, JAMES R	
			ART UNIT 3677	PAPER NUMBER
			MAIL DATE 05/04/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/784,137

Applicant(s)

ATKINS ET AL.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-29 is/are pending in the application.
- 4a) Of the above claim(s) 13 and 18-21 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25 and 26 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-12, 14-17, 22-24 and 27-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 27, 2007 has been entered.

### ***Election/Restrictions***

Applicant's election of Group II in the reply filed on October 24, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Applicant argues in the remarks received March 27, 2007 that the restriction requirement was traversed in the response of October 21, 2005. Applicant states in that response the following:

The requirement for election of species is traversed on the grounds that Claims 1-11, 14-17, 22-24 and 26-28 are generic, being readable on both the arrangement illustrated in Figs. 1-9 and the arrangement illustrated in Figs. 10-19.

A statement that a grouping of claims is generic to both species doesn't distinctly and specifically point out the supposed errors in the restriction requirement because having generic claims is the common situation when a restriction requirement is made and has nothing to do with the specifics of this case. The basic restriction presupposes that there may be generic claims that cover the species being divided out by the restriction requirement. The examination

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of both species in this case is a serious burden as the species are of different design that leads to a different function and different search.

Claims 13 and 18-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 24, 2005.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-12, 15-17, 22-24 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hopka et al. (US 3473201) in view of Liou (GB 2378149).

Hopka et al. (figures 1-7) teaches a fitting for harness straps 10, 16, 18 usable for securing a tether 12 to the harness since the part 22 is secured to a strap wherein the first part includes a plurality of locking members in the form of two balls 102, which move in the same direction, and the second part 22 includes aligned adjacent apertures 104. The tether is not given a function or claimed in combination that would give rise to a structure different from a strap in the harness system used to hold a person in place. Applicant has again carefully crafted the claims so as to only have a capability as clearly pointed out by use of the term "connectable" as found in claim 1, lines 2 and 5 and the use of "securable" found in claim 1, line 4. The tether and harness are not claimed in combination and the application of Hopka et al. is fully warranted. There is a locking element 26, 62 biased by the spring 38 to urge the locking members 102 into

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apertures 104 when in the locking position but to allow each locking member to move out of its respective aperture 104 when in the release position. The difference is that each locking aperture doesn't define a seat with the balls 102 sized to engage the respective seats when urged into the respective locking aperture but not to pass completely through the seat. However, Liou (figures 4, 5) teaches that it is useful to form the apertures 41 smaller than the balls 21 so as to form seats to receive the balls but not to pass completely through the seats. This provides for easier assembly of the ball detent locking mechanism as indicated on page 6, lines 4-10. As it would be beneficial to provide for easier assembly of the device of Hopka et al., it would have been obvious to modify the structure of the fitting of Hopka et al. so that each locking aperture defines a seat with the balls sized to engage the respective seats when urged into the respective locking aperture, but not to pass completely through the seat in view of Liou teaching such structure to provide for easier assembly of a ball-detent locking mechanism. As to claim 10, while Hopka et al. utilize apertures rather than recesses to receive the balls 102, it would have been obvious to use recesses in view of Liou teaching the use of recesses 231 in the spring-biased locking member 23 for receiving the balls 21. In regard to claim 15, the member 22 has a loop as shown in figures 2-4 to receive a strap. As to claim 16, the locking element 26, 62 has an actuator button 62 configured to urge the locking element 26, 62 towards the release position when pressed. Claim 17, is a product by process claim in that it uses the language "formed as part". However, the language doesn't indicate that it is formed as an "integral part". Therefore, the language is broad and the actuator button 62 is considered part of the locking element 26, 62 so as to meet the language of claim 17.

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Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hopka et al. (US 3473201) in view of Liou (GB 2378149) as applied to claim 1 above, and further in view of Thomas (US 4540218).

Further modification of the fitting of Hopka et al. so that rather than using a loop to receive the tether, a hook is used would have been obvious in view of Thomas (figure 4) teaching a releasable hook forming the recess 32, 34 for such a purpose.

***Allowable Subject Matter***

Claims 25 and 26 are allowed.

***Response to Arguments***

Applicant's arguments filed March 27, 2007 have been fully considered but they are not persuasive. Notwithstanding the changes to the form of claim 1, the claim has still been crafted in functional language that requires no further structural features than those shown by the art combined above. While applicant argues the function of the devices applied above, the claim construction still is only drawn to the fitting and releasable buckles can be used to secure many types of tethers together.

There is substantial difference in the structure of applicant's buckles themselves over the applied art, but they aren't claimed at this time and the argument with regard to the functional use of the buckle isn't persuasive.

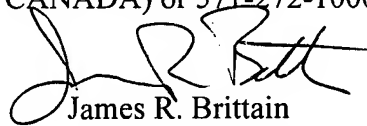
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB